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ONE HUNDRED TENTH CONGRESS

Congress of the United States

House of Representatives

COMMITTEE ON THE JUDICIARY

2138 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515-6216

(202) 225-3951

<http://www.house.gov/judiciary>

June 27, 2008

The Honorable Michael B. Mukasey
Attorney General of the United States
U.S. Department of Justice
950 Pennsylvania Ave., NW
Washington, DC 20530

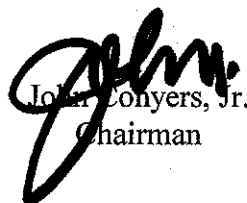
Dear Mr. Attorney General:

Attached is a subpoena for documents and electronic information that we have previously requested from the Department in connection with a number of specific matters that the Committee has been investigating. The subpoena is being issued pursuant to authority granted by the House Judiciary Subcommittee on Commercial and Administrative Law on June 26, 2008.

Although the Committee seeks to obtain information necessary for its oversight responsibilities cooperatively whenever possible, utilizing subpoenas as a last resort, we have concluded that a subpoena is warranted in this instance in light of our many prior requests for these documents. We trust that this subpoena will now facilitate the prompt production of the requested documents.

I look forward to your timely compliance so that we can proceed effectively with pending investigations in this Committee.

Sincerely,


John Conyers, Jr.
Chairman

cc: The Honorable Lamar S. Smith
The Honorable Linda T. Sánchez
The Honorable Chris Cannon

SUBPOENA

BY AUTHORITY OF THE HOUSE OF REPRESENTATIVES OF THE CONGRESS OF THE UNITED STATES OF AMERICA

To The Honorable Michael B. Mukasey, United States Attorney General

You are hereby commanded to be and appear before the Committee on the Judiciary

Subcommittee on Commercial and Administrative Law

of the House of Representatives of the United States at the place, date and time specified below.

- ☐ to testify touching matters of inquiry committed to said committee or subcommittee; and you are not to depart without leave of said committee or subcommittee.

Place of testimony: _____

Date: _____

Time: _____

- ☒ to produce the things identified on the attached schedule touching matters of inquiry committed to said committee or subcommittee; and you are not to depart without leave of said committee or subcommittee.

Place of production: 2138 Rayburn House Office Building, Washington, D.C. 20515

Date: July 7, 2008

Time: 2:00 p.m.

To Any authorized staff member of the House Committee on the Judiciary

_____ to serve and make return.

Witness my hand and the seal of the House of Representatives of the United States,
at the city of Washington, this 27 day of June, 2008.

Attest:

Robert F. Reeves, Deputy Clerk
Clerk

John Dingell
Chairman or Authorized Member

**SCHEDULE OF
DOCUMENT REQUESTS
SUBPOENA TO THE ATTORNEY GENERAL
JUNE 27, 2008**

Documents Requested

Former Special Counsel Patrick Fitzgerald's Investigation

1. All documents from the office of former Special Counsel Patrick J. Fitzgerald described below for which the former Special Counsel has not determined that disclosure would be barred by Federal Rule of Criminal Procedure 6(e) governing grand jury secrecy:
 - a) Complete and unredacted versions of transcripts, reports, notes, and other documents relating to any interviews outside the presence of the grand jury of President George W. Bush.
 - b) Complete and unredacted versions of transcripts, reports, notes, and other documents relating to any interviews outside the presence of the grand jury of Vice President Richard Cheney.
 - c) Complete and unredacted versions of FBI 302 interview reports relating to interviews of the following witnesses in the investigation: Karl Rove, Scooter Libby, Scott McClellan, Dan Bartlett, and Andrew Card.

Office of Legal Counsel Memoranda

2. Complete and unredacted versions, including complete paper and electronic versions, of any and all non-classified, non-public Office of Legal Counsel opinions addressing issues related in any way to national security, war, terrorism, interrogations, civil or constitutional rights of U.S. citizens, or presidential, congressional, or judicial power that the Office of Legal Counsel has issued since January 20, 2001.
3. Complete and unredacted version, including complete paper and electronic versions, of the October 23, 2001, Office of Legal Counsel classified memorandum concerning the legal authority to use military force to combat terrorist activities within the U.S.

New Hampshire Phone Jamming Investigation

4. Complete and unredacted versions, including complete paper and electronic

versions, of any and all documents relating to the approval, scope and timing of the investigation and indictments in the matter concerning efforts by Republican operatives to jam telephones of the New Hampshire Democratic party and others during the 2002 election.

The Replacement of Minnesota U.S. Attorney Tom Heffelfinger

5. Complete and unredacted versions, including complete paper and electronic versions, of any and all documents, and any communications between the Minnesota U.S. Attorney's Office staff and the Department, since the beginning of President Bush's second term, relating to the replacement of Tom Heffelfinger with Rachel Paulose in the position of U.S. Attorney for the District of Minnesota.

The Department's Civil Rights Enforcement Activities

6. Complete and unredacted versions, including complete paper and electronic versions, of investigation and justification memoranda submitted from 2001-2007 to the Assistant Attorney General's Office from the Employment and Voting Sections of the Civil Rights Division.
7. Complete and unredacted versions, including complete paper and electronic versions, of any and all documents relating to communications between anyone in the Office of the Assistant Attorney General of the Civil Rights Division and anyone in the Voting Section regarding each of the following: the 2001-2002 Mississippi redistricting submission, 2003 Texas redistricting submission, and the 2005 Georgia photo identification submission.
8. Complete and unredacted versions, including complete paper and electronic versions, of any and all documents relating to communications between anyone in the Justice Department and anyone outside of the Department (excluding Members of Congress and congressional staff) concerning the 2001-2002 Mississippi redistricting submission, and the 2005 Georgia photo identification submission.
9. Complete and unredacted versions, including complete paper and electronic versions, of all section 5 recommendation memoranda (drafts and final), telephone memoranda, and any dissenting view documents (drafts and final) prepared when the Voting Section reviewed each of the following submissions: 2001-2002 Mississippi redistricting, 2003 Texas redistricting, 1981 Georgia identification requirements for voter registration, 1994 Louisiana photo identification requirement for voting, 1997 Georgia identification, 1997 Texas voter registration

cards, and 2005 Georgia photo identification.

10. Complete and unredacted versions, including complete paper and electronic versions, of investigation and justification memoranda submitted from 2001-2007 to the Office of the Assistant Attorney General for the Civil Rights Division for review from the Employment and Voting Sections.
11. Complete and unredacted versions, including complete paper and electronic versions, of all documents describing the substance of the meeting including Michael Elston on December 5, 2006, concerning hiring.
12. Complete and unredacted versions, including complete paper and electronic versions, of any and all documents relating to employee performance evaluation between the Office of the Assistant Attorney General of the Civil Rights Division and the Voting Section from 2003-2007.

Selective Prosecution

13. Complete and unredacted versions, including complete paper and electronic versions, of any and all documents relating to whether and to what extent criminal charges should be or were pursued against Governor Don Siegelman or Dr. Cyril Wecht.
14. Complete and unredacted versions, including complete paper and electronic versions, of any and all documents relating to any communication involving White House staff, members of Congress or their staff, any state or local political party officials or their staff, or any private person, regarding Governor Siegelman or Dr. Wecht.
15. Complete and unredacted versions, including complete paper and electronic versions, of all case impression, prosecution or declination memoranda, including drafts, and related notes or emails discussing or referencing the Siegelman or Wecht matters.
16. Complete and unredacted versions, including complete paper and electronic versions, of any and all documents including, but not limited to, indictment review files/memoranda, and related notes or emails discussing or referencing the Siegelman or Wecht matters.
17. Complete and unredacted versions, including complete paper and electronic versions, of any and all documents relating to discovery correspondence regarding

the Siegelman or Wecht matters.

18. Complete and unredacted versions, including complete paper and electronic versions, of any and all FBI 302s and other witness interview records or memoranda relating to or referencing the Siegelman or Wecht matters.
19. Complete and unredacted versions, including complete paper and electronic versions, of any and all witness immunity agreements, Giglio materials, or Brady materials regarding the Siegelman or Wecht matters including any notes, draft testimony, or witness preparation materials created by or for any witnesses in the Siegelman or Wecht matters.
20. Complete and unredacted versions, including complete paper and electronic versions, of any and all documents relating to any contact of any kind between any juror in either the Siegelman or Wecht matter and any member of the prosecution or investigative team.
21. Complete and unredacted versions, including complete paper and electronic versions, of any and all documents relating to the strengths, weaknesses, merits, wisdom, or political implications of the Siegelman or Wecht prosecutions, including whether to bring any particular charges or types of charges in either case such as RICO charges and whether or not to impanel, re-impanel, or continue any grand jury in either matter.

**INSTRUCTIONS, DEFINITIONS, AND RULES OF CONSTRUCTION
FOR SCHEDULE OF DOCUMENT REQUESTS
SUBPOENA TO THE ATTORNEY GENERAL
JUNE 27, 2008**

Instructions

1. In complying with this Subpoena, you are required to produce all responsive documents that are in your possession, custody, or control, whether held by you or your past or present agent, employee, or representative acting on your behalf. You are also required to produce documents that you have a legal right to obtain, that you have a right to copy, or to which you have access, as well as documents that you have placed in the temporary possession, custody, or control of any third party. No records, documents, data, or information called for by this request shall be destroyed, modified, removed, transferred, or otherwise made inaccessible to the Subcommittee.
2. Production with respect to each document shall include all electronic versions and data files from word processing, spreadsheet, email or instant messaging applications, and other electronic data repositories, and shall be provided to the Subcommittee in its native file format and shall include all original metadata for each electronic document or data file. Productions shall be provided on CD, DVD or USB external hard drive.
3. Any draft, preliminary version, modification, revision, or amendment of a document, and any version that otherwise differs in any respect, such as having marginalia, markings, other notations or attachments, or otherwise, shall be considered a separate document and shall also be furnished as responsive.
4. In the event that any entity, organization or individual denoted in this subpoena has been, or is also known by any other name than that herein denoted, the subpoena shall be read also to include them under that alternative identification.
5. Each form in which a document is produced shall be capable of being copied in that form.
6. Documents shall be produced as they are kept in the usual course of your business, including with any file labels, dividers, or other identifying markers with which they were associated when this subpoena was served. Also identify to which paragraph from the subpoena such documents are responsive.

7. It shall not be a basis for refusal to produce documents that any other person or entity also possesses non-identical or identical copies of the same document.
8. If compliance with the subpoena cannot be made in full, compliance shall be made to the fullest extent possible and shall include an explanation of how the compliance is less than full and why fuller compliance is not possible.
9. In the event that any document which you have reason to believe the Subcommittee might regard as responsive is being withheld for any reason, provide the following information concerning such document:
 - a. the nature, source, and date of the document;
 - b. a description of the document's subject matter;
 - c. the name and address of each recipient of the original or a copy of the document, together with the date or approximate date when each recipient received the document;
 - d. the name and address of any other person to whom any of the contents of the document have been disclosed, the date such disclosure took place, and the means of such disclosure; and
 - e. the basis for withholding the document from the Subcommittee, including the nature of any privilege or rule of law relied upon, the identity of the person or persons asserting any such privilege or rule, and the legal basis for asserting the privilege or rule.
10. In the event that any document which you have reason to believe the Subcommittee might regard as responsive is claimed to have been destroyed or to otherwise be no longer within your possession, custody, or control, provide the following information concerning such document:
 - a. the nature, source, and date of the document;
 - b. a description of the document's subject matter;
 - c. the name and address of each recipient of the original or a copy of the document, together with the date or approximate date when each recipient received the document;

- d. the name and address of any other person to whom any of the contents of the document have been disclosed, the date such disclosure took place, and the means of such disclosure;
 - e. the date the document was destroyed, or ceased to be within your possession, custody, or control;
 - f. the person who ordered or authorized such destruction or removal from your possession, custody, or control;
 - g. the reason for the document's destruction or removal from your possession, custody, or control, and the policy and authority on which such destruction or removal was based; and
 - h. the custodian of the document on the date of such destruction or removal.
11. If a date or other descriptive detail set forth in this subpoena referring to a document is inaccurate, but the actual date or other descriptive detail is known to you or is otherwise apparent from the context of the request, you should produce all documents which would be responsive as if the date or other descriptive detail were correct.
12. All documents shall be bates-stamped sequentially and produced sequentially, with an indication as to which paragraph of the schedule it is responsive.
13. This request is continuing in nature and applies to any newly-discovered information. Any document not produced because it has not been located or discovered by the return date shall be produced immediately upon location or discovery subsequent thereto.
14. Two identical sets of responsive documents shall be delivered contemporaneously, one to the Majority Staff and one to the Minority Staff. Production sets shall be delivered to the Majority Staff in Room 2138, Rayburn House Office Building, and to the Minority Staff in Room 2142, Rayburn House Office Building.

Definitions and Rules of Construction

As used anywhere in this subpoena or in the schedule, instructions, definitions, or rules of construction thereto—

1. The term “document” is meant to carry, without limitation, the full breadth of that term as it is used in the Federal Rules of Civil Procedure. It includes, as applicable, any memorialization, whether typed, written, recorded, printed or otherwise produced by hand, or produced by any electronic or digital process or otherwise. It includes, without limitation, agreements, contracts, letters or other correspondence, facsimile or email transmissions, telephone messages, logs or records, memoranda, notes, diaries, graphs, formulas, models, bulletins, computer printouts, transcripts, analyses, returns, summaries, accounts, estimates, projections, comparisons, messages, press releases, circulars, reviews, opinions, offers, studies, photographs, investigations, questionnaires, surveys, work sheets, statistical data, reports, notebooks, manuals, charts or other graphic matter, plans, journals, ledgers, bank records, financial statements, summaries, analyses, commentary, expense reports, books, instructions, financial reports, working papers, records notes, notices, confirmations, telegrams, teletypes, interoffice or intra office communications, cables, and minutes or notations or other records of any type of any conversation, interview, telephone call, meeting, conference, discussion, or other communication. It includes any transmittal slip, attachment, appendix, or other document referenced therein. It includes, without limitation, any information contained on audiotape, videotape, microfilm, or microfiche, as well as any electronically stored information that has been created using, or is otherwise maintained on, digital repositories or other electronic media including, but not limited to, personal computers, office workstations, laptops, hard drives, handheld devices (such as Palm, Trio or Blackberry), phones (office, mobile and/or home), removable electronic storage devices (such as CDs, DVDs and USB or thumb drives), shared network drives and servers (including email and/or file servers) and back-up tapes (or other disaster recovery/archiving media).
2. The terms “and” and “or” shall be construed broadly and either conjunctively or disjunctively to bring within the scope of this subpoena any information which might otherwise be construed to be outside its scope. The singular includes the plural number, and vice versa, so that neither shall be construed as a limitation. The masculine, feminine, and neuter genders each include the others.
3. The terms “person”, “persons”, and “anyone” includes, without limitation, natural persons, firms, partnerships, associations, corporations, subsidiaries, divisions, departments, joint ventures, proprietorships, syndicates, or other legal, business or

government entities, and all subsidiaries, affiliates, divisions, departments, branches, and other units thereof.

4. The terms "referring" and "relating," with respect to any given subject, shall be construed broadly to mean anything that constitutes, contains, embodies, reflects, identifies, concerns, states, refers to, deals with or is in any manner whatsoever pertinent to that subject.
5. The terms "including" and "includes," with respect to any given subject, shall be construed broadly so that specification of any particular matter shall not be construed to exclude any documents that you have reason to believe the Subcommittee might regard as responsive.
6. The terms "Department of Justice" and "Department" include, without limitation, anyone presently or formerly employed there, suspended from employment there, or on administrative leave from employment there.
7. The terms "you" and "your" include you individually, in your capacity as Attorney General, as well as the Department of Justice and, without limitation, anyone presently or formerly employed there, suspended from employment there, or on administrative leave from employment there.